

Oregon Supplement to Statewide Allocation Agreement

under the

MALLINCKRODT PLC, *et al.* Bankruptcy and Additional Settling Company Agreements

This Oregon Supplement to Statewide Allocation Agreement (this “Agreement”) is between the State of Oregon and the OR Participating Subdivisions and supplements the terms and conditions of the OSA (defined below) and governs the allocation, distribution and use of (i) NOAT II Funds paid to Oregon for NOAT II Approved Abatement Uses under the Mallinckrodt Reorganization Plan, (ii) Additional Company Settlement Funds paid to Oregon for Opioid Remediation under each of the Additional Settling Company Agreements described in Section 1.b below, and (iii) additional settlement agreements arising out of multi-state opioid related litigation as set forth in Section 4(d) of this Agreement and Section 8 of the OSA. It is the Parties’ intent that this Agreement is made a part of the OSA as of the effective date of the OSA.

1. Introduction

- a. **Mallinckrodt.** Mallinckrodt PLC *et al.* (“Debtors”), filed for bankruptcy protection in October 2020. *In re Mallinckrodt plc*, U.S. Bankruptcy Court, D. Del., Case No. 20-12522 *et al.* (JTD) (jointly administered). On April 20, 2021, Debtors filed their *Joint Plan of Reorganization of Mallinckrodt plc and Its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*, ECF No. 2074 (as amended from time to time,¹ the “NOAT II Reorganization Plan”). The NOAT II Reorganization Plan contemplates the filing of Plan Supplements with proposed forms of the operative documents to implement the NOAT II Reorganization Plan upon its confirmation. On August 6, 2021, the Debtors filed the proposed form of the *National Opioid Abatement Trust II Agreement* (as amended from time to time, the “NOAT II Agreement”) as Exhibit D to the Plan Supplement, ECF No. 3610-1. On September 4, 2021, Debtors filed the proposed form of trust distribution procedures for the National Opioid Abatement Trust II (as amended from time to time,² the “NOAT II Distribution Procedures”), ECF No. 4149. To qualify for distributions under the NOAT II Distribution Procedures, each state may file a Statewide Allocation Agreement providing an agreed-upon allocation or method for allocating the NOAT II Funds for that state.
- b. **Additional Settlements.** Each of the Additional Settling Companies (as defined below) has entered into a separate settlement agreement with multiple states, including Oregon (each, such agreement, an “Additional Settling Company Agreement” and, collectively, the “Additional Settling Company Agreements”), under which each Additional Settling Company agrees to pay amounts into a national settlement fund, from which a fund administrator established as set forth in the Additional Settling Company Agreements may distribute funds to individual states to be used for Opioid Remediation pursuant to the terms of each of the Additional Settlement Company Agreements. To qualify for distribution of settlement funds under each Additional Settling Company Agreement, each state may file a Statewide Allocation Agreement providing an agreed-upon

¹ Debtors have filed amended proposed plans of reorganization on September 9, 2021, December 2, 2021, December 29, 2021, and January 6, 2022, and may further amend the Plan prior to the Bankruptcy Court’s ruling on confirmation.

² Debtors filed an amended proposed form of the NOAT II Trust Distribution Procedures on October 11, 2021, ECF No. 4664.

allocation or method for allocating the Additional Company Settlement Funds for that state with respect to funds distributed to the state under the Additional Settling Company Agreement.

- c. **Statewide Allocation Agreement.** In December 2021, the State of Oregon and OR Participating Subdivisions entered into the State of Oregon Subdivision Agreement Regarding Distribution and Use of Settlement Funds (“OSA”) in which the State and its subdivisions agreed to distribution allocations of Oregon Settlement Funds paid to Oregon under the Distributor and Janssen Agreements and related opioid matters. It is the intention of the State and the OR Participating Subdivisions that the portions of OSA incorporated into this Agreement, constitute a Statewide Allocation Agreement for purposes of both the NOAT II Plan and each of the Additional Settling Company Agreements. To that end, Oregon submitted the OSA to the NOAT II trustees in satisfaction of the SAA requirements under the NOAT II Distribution Procedures. On July 1, 2022, the NOAT II trustees acknowledged Oregon’s filing of the OSA in the Mallinckrodt bankruptcy proceeding. In addition, Oregon has submitted the OSA to describe the distribution plan for each of the Additional Settling Company Agreements.
- d. **Relationship to OSA.** Section 8 of the OSA provides that the allocation percentages between the State of Oregon and the OR Participating Subdivisions, and between and among the OR Participating Subdivisions, set forth in the OSA will apply to future multistate opioid settlements with distributors, manufacturers and pharmacies, subject to consideration of the terms of such settlements. The purpose of this Agreement is to clarify which provisions of the OSA are applicable to (i) the distribution of NOAT II Funds to avoid any potential confusion in the administration of the NOAT II Funds in accordance with the NOAT II Plan, and (ii) the distribution of the Additional Company Settlement Funds to avoid any potential confusion in the administration of the Additional Company Settlement Funds in accordance with the Additional Settling Company Agreements.

2. Definitions

The following terms shall have the meaning set forth below when used in this Agreement. Additional terms defined within this Agreement shall have that meaning when used in this Agreement. In addition, terms used in this Agreement that are defined in the OSA will have that meaning unless otherwise defined in this Agreement.

- a. *Additional Company Settlement Funds* means funds distributed to Oregon for Opioid Remediation under an Additional Settling Company Agreement.
- b. *Additional Settling Company* means, each of the following entities individually, and *Additional Settling Companies* means the following entities collectively:
 - i. *Allergan*, which means Allergan Finance, LLC (f/k/a Actavis, Inc., which, in turn, was f/k/a/ Watson Pharmaceuticals, Inc.) and Allergan Limited (f/k/a Allergan plc, which, in turn, was f/k/a Actavis plc). Allergan does not include Teva Pharmaceuticals Industries Ltd. (“Teva Ltd.”), Teva Pharmaceuticals USA, Inc. (“Teva USA”), Cephalon, Inc. (“Cephalon”), Actavis LLC (f/k/a Actavis Inc.) (“Actavis LLC”), Watson Laboratories, Inc. (“Watson”), Actavis Pharma,

Inc. (f/k/a Watson Pharma, Inc.) (“Actavis Pharma”), Actavis Elizabeth LLC (“Actavis Elizabeth”), Actavis Kadian LLC (“Actavis Kadian”), Actavis Laboratories FL, Inc. (f/k/a Watson Laboratories, Inc. - Florida) (“Actavis Labs FL”), Actavis Laboratories UT, Inc. (f/k/a Watson Laboratories, Inc. - Utah) (“Actavis Labs UT”), Actavis Mid Atlantic LLC (“Actavis Mid”), Actavis South Atlantic LLC (“Actavis South”), Actavis Totowa LLC (“Actavis Totowa”), or Anda, Inc. (“Anda”).

- ii. *CVS*, which means CVS Health Corporation and CVS Pharmacy, Inc. and all of their past and present direct and indirect parents and subsidiaries.
- iii. *Teva*, which means (i) Teva Pharmaceutical Industries Ltd. and (ii) all of its respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns, including but not limited to Teva Pharmaceuticals USA, Inc., Actavis LLC (f/k/a Actavis Inc.), Actavis Elizabeth LLC, Actavis Kadian LLC, Actavis Pharma, Inc. (f/k/a Watson Pharma, Inc.), Actavis Kadian LLC, Actavis Laboratories UT, Inc. (f/k/a Watson Laboratories, Inc. - Utah), Actavis Mid Atlantic LLC, Actavis Totowa LLC, Actavis Laboratories FL, Inc. (f/k/a Watson Laboratories, Inc. - Florida), Actavis South Atlantic LLC, Warner Chilcott Company LLC, and Watson Laboratories, Inc., and Anda Inc.
- iv. *Walgreens*, which means Walgreen Co., and
- v. *Walmart*, which means Walmart, Inc.
- c. *Additional Settlement Funds* means both NOAT II Funds and Additional Company Settlement Funds.
- d. *NOAT II Plan* means, collectively, the NOAT II Reorganization Plan and its Plan Supplements, the NOAT II Agreement, and the NOAT II Distribution Procedures, and any modifications or supplements to any of the foregoing.
- e. *NOAT II Funds* means any funds distributed under the NOAT II Plan to the State and the OR Participating Subdivisions for NOAT II Approved Abatement Uses.
- f. *NOAT II Approved Abatement Uses* means opioid remediation activities for which NOAT II Funds may be used pursuant to Schedules A and B of the NOAT II Distribution Procedures.
- g. *Opioid Remediation*, when used herein in reference to the expenditure of Additional Company Settlement Funds, has the meaning set forth in the Additional Settling Company Agreement under which the Additional Company Settlement Funds were paid to Oregon.

3. **General Terms**

- a. This Agreement is subject to the requirements of the NOAT II Plan and applicable law with respect to the distribution of NOAT II Funds. Terms used in this Agreement relating

solely to the distribution of NOAT II Funds have the same meaning as in the NOAT II Plan unless otherwise defined herein.

- b. This Agreement is subject to the requirements of each individual Additional Settling Company Agreement and applicable law with respect to distribution of Additional Company Settlement Funds distributed under that Additional Settling Company Agreement. Terms used in this Agreement relating to the distribution of Additional Company Settlement Funds under an Additional Settling Company Agreement have the same meaning as in that Additional Settling Company Agreement unless otherwise defined herein.
- c. This Agreement applies to:
 - i. the distribution of NOAT II Funds under the NOAT II Plan and does not affect any other distribution of funds under the NOAT II Plan, including but not limited to attorney fees;
 - ii. the distribution of Additional Company Settlement Funds dedicated to Opioid Remediation under each Additional Settling Company Agreement, and does not affect any other distribution of funds under that or any other Additional Settling Company Agreement, including but not limited to attorney fees.
- d. Pursuant to the NOAT II Plan, all NOAT II Funds distributed pursuant to this Agreement will be used for NOAT II Approved Abatement Uses.
- e. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Allergan is a party (the "Allergan Agreement") will be used for Opioid Remediation pursuant to and as defined in the Allergan Agreement.
- f. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which CVS is a party (the "CVS Agreement") will be used for Opioid Remediation pursuant to and as defined in the CVS Agreement.
- g. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Teva is a party (the "Teva Agreement") will be used for Opioid Remediation pursuant to and as defined in the Teva Agreement.
- h. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Walgreens is a party (the "Walgreens Agreement") will be used for Opioid Remediation pursuant to and as defined in the Walgreens Agreement.
- i. All Additional Company Settlement Funds distributed pursuant to this Agreement and the Additional Settling Company Agreement to which Walmart is a party (the "Walmart Agreement") will be used for Opioid Remediation pursuant to and as defined in the Walmart Agreement.

4. Oregon State Allocation of Additional Settlement Funds

As provided in the OSA, the Additional Settlement Funds payable to Oregon, and the amounts paid to Oregon under the NOAT II Plan and each of the Additional Settlement Agreements shall be

allocated as follows: 45% to the State (“State of Oregon Allocation”) and 55% to the OR Participating Subdivisions (“Oregon Participating Subdivision Allocation”).

- a. **State of Oregon Allocation.** Forty-Five percent (45%) of the total Additional Settlement Funds paid to Oregon will be allocated to the State and used by the State for (i) with respect to NOAT II Funds distributed to the State under the NOAT II Plan, for NOAT II Approved Abatement Uses, and (ii) with respect to Additional Company Settlement Funds distributed under an Additional Settling Company Agreement, for Opioid Remediation as defined and permitted by the terms of that Additional Settling Company Agreement.
- b. **OR Participating Subdivision Allocation.** Fifty Five percent (55%) of total Additional Settlement Funds paid to Oregon will be allocated to OR Participating Subdivisions and used by the OR Participating Subdivisions for (i) with respect to NOAT II Funds distributed to the State under the NOAT II Plan, for NOAT II Approved Abatement Uses, and (ii) with respect to Additional Company Settlement Funds distributed under an Additional Settling Company Agreement, for Opioid Remediation as defined and permitted by the terms of that Additional Settling Company Agreement. Additional Settlement Funds allocated to OR Participating Subdivisions, whether NOAT II Funds or Additional Company Settlement Funds, shall be distributed to OR Participating Subdivisions in the same proportion and manner as OR Subdivision Funds are distributed under the Section 4(c) of the OSA.
- c. **Administration of Distributions.** Direct distributions of Additional Settlement Funds shall be administered according to (i) with respect to NOAT II Funds, the NOAT II Plan, and (ii) with respect to Additional Company Settlement Funds, the Additional Settling Company Agreement under which such Additional Company Settlement Funds are paid, each consistent with this Agreement and the instructions submitted to the applicable administrator of the NOAT II Plan or Additional Settling Company Agreement by the OR Participating Subdivisions.
- d. **Other Settlements.** This Agreement applies to the distribution of NOAT II Funds received by Oregon under the NOAT II Plan and the Additional Company Settlement Funds received by Oregon under the Additional Settling Company Agreements. In addition, consistent with Section 8 of the OSA, the allocation and distribution between the State and OR Participating Subdivisions of any funds other than the NOAT II Funds, the Additional Settlement Funds or the Oregon Settlement Funds (as defined in the OSA) received by Oregon under any other multistate opioid settlements based on the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling or marketing of opioids, or the consultants, agents or associates of distributors, manufacturers or pharmacies (such funds, “Future Settlement Funds”), will be governed by Sections 3, 4(a)-(c), 5-8, and 10 of the OSA, as well as any additional agreements entered into between the State and the OR Participating Subdivisions relevant to the Future Settlement Funds, subject to consideration of other terms of such settlements that impact allocation of Future Settlement Funds; provided that any reference in those sections of the OSA to either the Distributor Settlement Agreement or the Janssen Settlement Agreement shall be read to mean the applicable settlement under which Oregon receives the Future Settlement Funds with respect to distribution of those Future Settlement Funds.

5. Additional Compliance Obligations

- a. **NOAT II Funds.** Each OR Participating Subdivision that receives a distribution of NOAT II Funds is responsible for meeting all requirements of the NOAT II Plan, including limitations on spending the funds and accounting and reporting requirements. These include, but are not limited to, the following:
 - i. In accordance with the terms of the NOAT II Plan, no OR Participating Subdivision that receives an allocation may expend more than 5% of the NOAT II Funds for expenses incurred in administering the distributions for the NOAT II Approved Abatement Uses, including the process of selecting programs to receive distributions of NOAT II Funds.
 - ii. In accordance with the terms of the NOAT II Plan, no portion of any NOAT II Funds may be used to pay attorneys' fees or costs.
 - iii. All OR Participating Subdivision receiving direct distribution of funds through this Agreement must comply with the reporting requirements set forth in the NOAT II Plan. Reporting for cities that do not elect direct distribution will be the responsibility of the County to whom that City's funds were distributed.
 - iv. NOAT II Funds distributed to a county are not required to be spent exclusively for NOAT II Approved Abatement Uses in any city, but must be used only for NOAT II Approved Abatement Uses and reported in accordance with all requirements of the NOAT II Plan.
- b. **Additional Company Settlement Funds.** Each OR Participating Subdivision that receives a distribution of Additional Company Settlement Funds under an Additional Settling Company Agreement is responsible for meeting all requirements of the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds, including limitations on spending the Additional Company Settlement Funds and accounting and reporting requirements under the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds. These include, but are not limited to, the following:
 - i. No OR Participating Subdivision that receives an allocation of Additional Company Settlement Funds may expend the funds for expenses incurred in administering the funds for Opioid Remediation in excess of any limits set forth in the Additional Settling Company Agreement under which it received the Additional Company Settlement Funds.
 - ii. No portion of any Additional Company Settlement Funds may be used to pay attorneys' fees or costs.
 - iii. With respect to reporting requirements applicable to the expenditure of Additional Company Settlement Funds, reporting for cities that do not elect direct distribution will be the responsibility of the County to whom that City's funds were distributed.
 - iv. Additional Company Settlement Funds distributed to a county are not required to be spent exclusively for Opioid Remediation in any city, but must be used only for Opioid Remediation in compliance with the Additional Settling Company Agreement under which they were paid to

the county.

- c. **OSA Reporting and Auditing.** The provisions of Sections 5 (State and Subdivision Reporting and Oversight) and 6 (Audits) of the OSA apply to the OR Participating Subdivision's reporting of expenditures and the Parties' respective audit rights related to Additional Settlement Funds; provided that any reference in those sections of the OSA to either the Distributor Settlement Agreement or the Janssen Settlement Agreement shall be read to mean (i) the NOAT II Plan with respect to the reporting of the use of and audits related to the NOAT II Funds, and (ii) the Additional Settling Company Agreements with respect to any Additional Company Settlement Funds. The Parties ~~are~~ cooperate to coordinate reporting obligations under the OSA and this Agreement with respect to the Distributor Settlement Agreement, the Janssen Settlement Agreement, the NOAT II Plan, and the Additional Settling Company Agreements.

6. **Agreements Among Local Governments**

OR Participating Subdivisions may form agreements or ventures, or otherwise work in collaboration with federal, state, local, tribal or private sector entities in pursuing NOAT II Approved Abatement Uses or Opioid Remediation, subject to any restrictions applicable to such federal, state, local, tribal or private sector entities. Further, provided that (i) all NOAT II Funds are used for NOAT II Approved Abatement Uses, a county and any cities or towns within the county may agree to reallocate NOAT II funds paid to them among themselves, provided that all direct distributions of NOAT II Funds must meet the requirements of the NOAT II Plan, including regular accountings; and (ii) all Additional Company Settlement Funds paid under an Additional Company Settlement Agreement are used for Opioid Remediation consistent with the Additional Settling Company Agreement under which the Additional Company Settlement Funds were distributed, a county and any cities or towns within the county may agree to reallocate Additional Settlement Funds paid to them pursuant to an Additional Settling Company Agreement among themselves, provided that all direct distributions of the Additional Settlement Funds must meet the requirements of the Additional Settling Company Agreement under which they were distributed.

7. **Designation of Additional Settlement Funds**

By signing this Agreement, the Attorney General designates the Additional Settlement Funds distributed to the State under this Agreement as paid to the State pursuant to judgments or settlements arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids, or the consultants, agents or associates of distributors, manufacturers or pharmacies. Accordingly, all Additional Settlement Funds paid to the State shall be deposited in the Opioid Settlement Prevention, Treatment and Recovery Fund established by Oregon Laws 2022, Chapter 63, Section 5(1).

8. **Miscellaneous**

- a. **Interpretation.** This Agreement supplements, is made a part of, and is incorporated into the OSA. Except as set forth herein, the terms of the OSA govern the distribution, use and other obligations related to the Additional Settlement Funds.
- b. **Signature Page; Counterparts.** This Agreement may be executed electronically and in counterparts, each of which shall be considered an original, but which together shall constitute one and the same agreement.

Signature Page

OR Participating Subdivisions:

OR Participating Subdivisions have
executed this Agreement via DocuSign

Oregon Subdivision:

City of Newport

By: *A R Nibel*

**State of Oregon, acting by and through
the Oregon Department of Justice**

Title: City Manager

By: *Lisa M. Udland*
Lisa M. Udland
Deputy Attorney General